

## MODULE I GENERAL PERMIT CONDITIONS

### MODULE HIGHLIGHT

This Module contains conditions pertaining to all hazardous waste storage facilities permitted under the New Mexico Hazardous Waste Act (**HWA**) and the Resource Conservation and Recovery Act (**RCRA**).

### PERMIT CONSTRUCTION: CITATIONS

Whenever provisions of this Permit or of the New Mexico Hazardous Waste Management Regulations (**HWMR**), 20.4.1 NMAC, incorporating 40 CFR Parts 260 through 270 are cited, the citation shall include all subordinate provisions of the cited provision paragraphs of this Permit or of the HWMR. When subordinate sections are cited, such citations shall include all subsections of the cited paragraphs.

### I.A. EFFECT OF PERMIT

The Secretary of the New Mexico Environment Department (**Secretary**) issues this Permit to Rinchem Company Inc., (**the Permittee**) the owner and operator of a Container Storage Facility (**EPA I.D. Number NMD002208627**). This Permit authorizes the Permittee to accept, manage and store off-site generated hazardous waste at the Facility, and establishes the general and specific standards for these activities, pursuant to the New Mexico Hazardous Waste Act (**HWA**) NMSA 1978, §74-4-1 et seq. (Repl. Pamp. 1993), and the New Mexico Hazardous Waste Management Regulations, 20.4.1.100 NMAC et seq.

Compliance with this Permit during its term shall constitute compliance for purposes of enforcement with Subtitle C of the Resource Conservation and Recovery Act (**RCRA**), 42 U.S.C. §6901 et seq., and/or HWA, and/or their implementing regulations. Compliance with this Permit shall not constitute a defense to any order issued or any action brought under HWA §§74-4-10.1.E or 74-4-13; RCRA §§3008(a), 3008(h), 3013, 7002, or 7003; the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (**CERCLA**), 42 U.S.C. §9601 et seq., or any other law providing for protection of public health or the environment. This Permit does not convey any property rights of any sort or any exclusive privilege, nor authorize any injury to persons or property, any invasion of other private rights, or any infringement of State or local laws or regulations, in accordance with 20.4.1.900 NMAC, incorporating 40 CFR §§270.4 and 270.30(g).

The complete Permit consists of Permit Modules I through V and Permit Attachments A through L as follows:

Module I	-	General Permit Conditions
Module II	-	General Facility Conditions
Module III	-	Storage of Hazardous Waste in Containers

Module IV	-	Corrective Action
Module V	-	Subpart CC Standards for Organic Air Emissions
Attachment A	-	General Facility Description
Attachment B	-	Authorized Wastes
Attachment C	-	Design and Operation of the Container Storage Facility
Attachment D	-	Waste Analysis Plan
Attachment E	-	Security Plan
Attachment F	-	Inspection Plan
Attachment G	-	Preparedness and Prevention Procedures
Attachment H	-	Contingency Plan
Attachment I	-	Record Keeping
Attachment J	-	Personnel Training
Attachment K	-	Closure Plan
Attachment L	-	Corrective Action Units
Attachment M	-	Financial Insurance

If there is a conflict between the language of the Permit Modules and the language of the Permit Attachments, the language of the Permit Modules shall override the language in the Permit Attachments.

**I.B. PERMIT ACTIONS**

**I.B.1. Term of Permit**

This Permit shall be effective for a fixed period of ten (10) years from the effective date of issuance as specified in the Permit certificate. [20.4.1.900 NMAC, incorporating 40 CFR §270.50(a)].

**I.B.2. Permit Modification, Suspension and Revocation**

This Permit may be modified, suspended, or revoked for cause as specified in HWA §74-4-4.2 and 20.4.1.900 NMAC, incorporating 40 CFR §270.41 through §270.43. The filing of a request by the Permittee for a Permit modification, suspension, or revocation, or the notification of planned changes or anticipated noncompliance, shall not stay any Permit condition, in accordance with 20.4.1.900 NMAC, incorporating 40 CFR §270.30(f).

#### **I.B.3      Permit Renewal**

Permittee may renew this Permit by submitting an application for a new permit at least one hundred eighty (180) calendar days before the expiration date of this Permit. In reviewing any application for a permit renewal, the Secretary shall consider improvements in the state of control and measurement technology and changes in applicable regulations. [20.4.1.900 NMAC (incorporating 40 CFR §270.10(h) and §270.30(b))].

#### **I.B.4      Continuation of Expiring Permit**

If the Permittee has submitted a timely and complete application for renewal of this Permit, as specified in 20.4.1.900 NMAC (incorporating 40 CFR §270.10, §270.13 through §270.29), this Permit shall remain in effect until the effective date of the new permit if, through no fault of the Permittee, the Secretary has not issued a new permit on or before the expiration date of this Permit. [20.4.1.900 NMAC (incorporating 40 CFR §270.51)].

#### **I.B.5.      Permit Review**

The Secretary shall review this Permit no later than five (5) years after the effective date of this Permit, and shall modify this Permit as necessary pursuant to Section §74-4-4.2 of the HWA and 20.4.1.900 NMAC (incorporating 40 CFR §270.41, §270.50(b) and §270.50(d)). Such modification(s) shall not extend the effective term of this Permit as specified in Permit Condition I.B.1. [20.4.1.900 NMAC, incorporating 40 CFR §270.41, §270.50(b) and §270.50(d)].

#### **I.B.6.      Scope of Permit**

This Permit authorizes the management and storage of hazardous wastes only in the seven rooms of the Facility, as defined herein, and at no other locations on the Facility.

### **I.C.      SEVERABILITY**

The provisions of the Permit are severable, and if any provision of this Permit, or any application of any provision of this Permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this Permit shall not be affected thereby.

### **I.D.      DEFINITIONS**

For purposes of this Permit, terms used herein shall have the same meanings as those in HWA, RCRA, and their implementing regulations, unless this Permit specifically provides otherwise.

Where a term is not defined in HWA, RCRA, pursuant regulations, EPA guidelines or publications, or this Permit, the meaning associated with such a term shall be defined by a standard dictionary reference or the generally accepted scientific or industrial meaning of the term.

**“Action levels”** are health-based concentrations of hazardous constituents determined by the secretary to be indicators for the protection of human health and/or the environment.

**“Area of Concern” (AOC)** means any discernable area at the Facility, or an area off-site impacted by migration of contamination from the Facility, where the Secretary determines may have a probable release of hazardous waste or hazardous constituents not from a SWMU and may cause a current or potential threat to human health or the environment. An AOC may require investigation and remedial action under Section 74-4-4.2.B of the HWA or 20.4.1.900 NMAC (incorporating 40 CFR §270.32(b)(2), in order to ensure adequate protection of human health and the environment.

**“Container Storage Unit” (CSU)** for the purposes of this Permit is used synonymously with the Rinchem Company Container Storage Facility which comprises seven storage rooms.

A **“Corrective Action Management Unit” (CAMU)** includes any area within the Rinchem Facility that is designated by the Secretary under the HWA and its regulations, for the purpose of implementing corrective action requirements. A CAMU shall only be used for the management of remediation wastes pursuant to implementing such corrective action requirements at the Facility.

**“Corrective Measures”** include all corrective action necessary to protect human health and the environment for all releases of hazardous waste or hazardous constituents from any solid waste management unit at the Facility, regardless of the time at which waste was placed in the unit, as required under Section 74-4-4.2.B of the HWA and 20.4.1.500 NMAC, incorporating 40 CFR §264.101. Corrective measures may address releases to air, soils, surface water or groundwater.

**“Extent of contamination”** is defined as the horizontal and vertical area in which the concentrations of hazardous constituents in the environmental media being investigated are above detection limits or background concentrations indicative of the region, whichever is appropriate as determined by the Secretary.

**“Facility”** means Rinchem Company, Inc. Container Storage Facility including all contiguous land, and structures, other appurtenances, and improvements on the land, used for managing and storing hazardous waste, located at 6133 Edith Boulevard, NE, Albuquerque, New Mexico. For the purposes of implementing corrective action under 20.4.1.500 NMAC, incorporating 40 CFR §264.101, or RCRA Section 3008(h), HWA 74-4-10.E. The Facility includes all contiguous property under the control of the owner or operator seeking a permit under 20.4.1 NMAC, incorporating 40 CFR 260-270. [20.4.1.100 NMAC, incorporating 40 CFR §260.10.]

**“Foreign Source”** refers to hazardous waste generated outside the United States of America.

**“Hazardous Constituents”** are those substances listed in 20.4.200 NMAC, incorporating 40 CFR §261 Appendix VIII, and 20.4.1.500 NMAC, incorporating 40 CFR §264 Appendix IX.

**“Hazardous Waste”** means a hazardous waste as defined in Section 74-4-3(I) of HWA, and 20.4.1.200 NMAC, incorporating 40 CFR §261.3.

**“He”** means "he" or "she" as appropriate.

**“Interim Measures”** are actions necessary to minimize or prevent the further migration of contaminants and limit actual or potential human and environmental exposure to contaminants while long-term corrective action remedies are evaluated and, if necessary, implemented.

**“Off-Site Source”** means a generator of hazardous waste located within the United States of America, but outside the Permittee's Facility boundary.

**“Release”** means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of any hazardous waste or hazardous constituents into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing hazardous waste or hazardous constituents).

**“Remediation Waste”** for the purposes of this permit includes all solid and hazardous wastes, and all media (including groundwater, surface water, soils, and sediments) and debris, which contain listed hazardous wastes or which themselves exhibit a hazardous waste characteristic, that are managed for the purpose of implementing corrective action requirements. For the Facility, remediation wastes may originate only from within the Facility boundary, but may include releases beyond the Facility boundaries.

**“Secretary”** means the Secretary of the New Mexico Environment Department or his designee or authorized representative.

A **“Solid Waste Management Unit”** (SWMU) means any discernable unit in which solid waste has been placed at any time, irrespective of whether the unit is or ever was intended for the management of solid waste. RCRA regulated hazardous waste management units are also solid waste management units. SWMUs include areas that have been contaminated by routine and systematic releases of hazardous waste or hazardous constituents, excluding one-time accidental spills that are immediately remediated and cannot be linked to solid waste management activities (e.g. product or process spills).

## **I.E. DUTIES AND REQUIREMENTS**

### **I.E.1. Duty to Comply**

The Permittee shall comply with all conditions in this Permit, except to the extent and for the duration such noncompliance is authorized in an Emergency Permit specified in 20.4.1.900 NMAC, incorporating 40 CFR §270.61. Any Permit noncompliance, except under the terms of an Emergency Permit, constitutes a violation of HWA and/or RCRA and may subject the Permittee, its successors and assigns, officers, directors, employees, parents, or subsidiaries, to an administrative or civil enforcement action, including civil penalties and injunctive relief, as specified under §74-4-10 or §74-4-10.1 of HWA or Sections 3008(a) and (g), 7002, or 7003 of RCRA; to permit modification, suspension, revocation, or denial of a permit application or modification request under §74-4-4.2 of HWA; or to criminal fines or imprisonment under HWA Section 74-4-11 or Section 3008(d), (e), or (f) of RCRA; or to a combination of the foregoing. [20.4.1.900 NMAC, incorporating 40 CFR §270.30(a)]

### **I.E.2. Duty to Reapply**

If the Permittee wishes to continue an activity regulated by this Permit after the expiration date of this Permit, the Permittee shall apply for and obtain a new permit. The Permittee shall submit a complete application for a new permit at least 180 calendar days before the expiration date of this Permit, unless permission for a later date has been granted by the Secretary [20.4.1.900 NMAC, incorporating 40 CFR §270.10(h) and §270.30(b)]. The Secretary shall not grant permission for applications to be submitted later than the expiration date of the existing Permit.

### **I.E.3. Transfer of Permit**

The Permittee shall not transfer this Permit to any person except after providing notice to the Secretary and receiving approval from the Secretary for this action. The prospective new owner or operator must file a disclosure statement with the Secretary as specified at HWA, §74-4-4.7. The Secretary may require modification or revocation and reissuance of this Permit in accordance with 20.4.1.900 and 20.4.1.901 NMAC, incorporating 40 CFR §270.40(b) and §270.41(b)(2).

Before transferring ownership or operation of the Facility during its active life or post-closure care period, the Permittee shall notify the new owner or operator in writing of the requirements of 20.4.1.500 NMAC, incorporating 40 CFR Part 270, and of this Permit. [20.4.1.900 NMAC, incorporating 40 CFR §270.30(1)(3) and §270.40)].

### **I.E.4. Need to Halt or Reduce Activity Not a Defense**

It shall not be a defense for the Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the terms of this Permit, as provided by 20.4.1.900 NMAC, incorporating 40 CFR §270.30(c).

**I.E.5. Duty to Mitigate**

In the event of noncompliance with this Permit, the Permittee shall take all reasonable steps to minimize releases to the environment, and shall carry out such measures as are reasonable to prevent significant adverse impacts on human health or the environment, as required by 20.4.1.900 NMAC, incorporating 40 CFR §270.30(d).

**I.E.6. Proper Operation and Maintenance**

The Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the conditions of this Permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance/quality control procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of this Permit as required by 20.4.1.900 NMAC, incorporating 40 CFR §270.30(e).

**I.E.7. Duty to Provide Information**

The Permittee shall furnish to the Secretary, within a reasonable time as specified by the Secretary, any relevant information which the Secretary may request to determine whether cause exists for modifying, suspending, or revoking this Permit, or to determine compliance with this Permit. The Permittee shall also furnish to the Secretary, upon request, copies of records required to be kept by this Permit as required by 20.4.1.500 NMAC, incorporating 40 CFR §264.74(a) and 20.4.1.900 NMAC, incorporating 40 CFR §270.30(h).

Permit Condition I.E.7 shall not be construed to limit, in any manner, the Secretary's authority under HWA§74-4-4.3 or RCRA § 3007(a).

**I.E.8. Inspection and Entry**

The Permittee shall allow the Secretary, or authorized representatives, upon the presentation of credentials and other documents as may be required by law, the following entry and inspection privileges specified in 20.4.1.900 NMAC, incorporating 40 CFR §270.30(i):

**I.E.8.a.      Entrance to premises** - to enter at reasonable times into the Permittee's premises where the regulated Facility or activity is located or conducted, or where records must be kept under the conditions of this Permit;

**I.E.8.b.      Access to records** - to have access to and copy, at reasonable times, any records that must be kept under the conditions of this Permit;

**I.E.8.c.      Inspection** - to inspect at reasonable times the Facility, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Permit; and

**I.E.8.d.      Sampling** - to sample or monitor at reasonable times, for the purposes of assuring Permit compliance or as otherwise authorized by RCRA and/or HWA, any substances or parameters, including soil, surface water, and ground water at the Facility.

Permit Condition I.E.8 shall not be construed to limit, in any manner, the Secretary's authority under HWA §74-4-4.3 or RCRA § 3007(a).

**I.E.9.      Monitoring and Records**

**I.E.9.a.      Representative sampling**

For purposes of monitoring, the Permittee shall take samples and measurements representative of the monitored activity as required by 20.4.1.900 NMAC, incorporating 40 CFR §270.30(j)(1), and the procedures stipulated in Permit Condition II.C.2.

**I.E.9.b.      Record retention**

The Permittee shall retain records of all ground water monitoring information, including all calibration and maintenance records, well logs, copies of all reports and records required by this Permit, the waste minimization certification required by 20.4.1.500 NMAC, incorporating 40 CFR §264.73(b)(9), and records of all data used to complete the Permit Application for a period of at least three (3) years from the date of the sample, measurement, report, record, certification, or application as required by 20.4.1.900 NMAC incorporating 40 CFR §270.30.(j)(2). This period may be extended by request of the Secretary at any time and is automatically extended during the course of any unresolved enforcement action regarding this Facility.

**I.E.9.c.      Monitoring records contents**



In accordance with 20.4.1.900 NMAC, incorporating 40 CFR §270.30(j)(3), records of monitoring information shall include:

- i. the dates, exact place, and times of sampling or measurements;
- ii. the names and qualifications of the individuals who performed the sampling or measurements;
- iii. the name and address of the laboratory that performed the analysis;
- iv. the dates analyses were performed;
- v. the names and qualifications of the individuals who performed the analyses;
- vi. the analytical techniques or methods used; and
- vii. the results of such analyses.

**I.E.10. Reporting Planned Changes**

The Permittee shall give notice to the Secretary, as soon as possible, of any planned physical alterations or additions to the Facility, as required by 20.4.1.900 NMAC, incorporating 40 CFR §270.30(l)(1).

**I.E.11. Reporting Anticipated Noncompliance**

The Permittee shall give advance notice to the Secretary of any planned changes to the Facility or in any activities, which may result in noncompliance with Permit requirements, as required by 20.4.1.900 NMAC, incorporating 40 CFR §270.30(l)(2).

**I.E.12. Certification of Construction or Modification**

If the Facility is modified, the Permittee shall not store hazardous waste in the modified portion of the Facility, until the following conditions specified in 20.4.1.900 NMAC, incorporating 40 CFR §270.30(1)(2), have been satisfied:

**I.E.12.a. Submittal of statement** - the Permittee has submitted to the Secretary, by certified mail or hand delivery, a letter signed by the Permittee

and an independent professional engineer registered in New Mexico stating that the Facility modification meets the requirements of this Permit; and

**I.E.12.b.      Inspection by the Secretary** - the Secretary has:

- i.      inspected the modified or newly constructed portion of the Facility and finds it is as required by the conditions of this Permit; or
- ii.     waived the inspection or, within fifteen (15) calendar days from the date of submission of the letter required by Permit Condition I.E.11.a., has not notified the Permittee of his intent to inspect.

**I.E.13.      Twenty-Four Hour and Subsequent Reporting**

**I.E.13.a.      Oral report** - The Permittee shall report to the Secretary any noncompliance which may endanger human health or the environment. Any such information shall be reported orally within 24 hours from the time the Permittee becomes aware of the circumstances, as required by 20.4.1.900 NMAC, incorporating 40 CFR §270.30(1)(6)(i). The report shall include the following:

- i.      information concerning release of any hazardous waste that may cause an endangerment to public drinking water supplies; and
- ii.     any information of a release or discharge of hazardous waste, or of a fire or explosion at the Facility, which could threaten the environment or human health outside the Facility.

**I.E.13.b.      Written report** - The Permittee shall submit a written report within five (5) calendar days from the time the Permittee becomes aware of the noncompliance as required by 20.4.1.900 NMAC, incorporating 40 CFR §270.30(1)(6)(iii). The written report shall contain the following:

- i.      a description of the noncompliance and its cause;
- ii.     name, address, and telephone number of the owner or operator;
- iii.    name, address, and telephone number of the Facility;
- iv.    the period of the occurrence including exact date and time, and, if the noncompliance has not been corrected, the anticipated time it is expected to continue;

- v. name and quantity of materials involved;
- vi. the extent of injuries, if any;
- vii. an assessment of actual or potential hazards to the environment and human health outside the Facility, where this is applicable;
- viii. estimated quantity and disposition of recovered material that resulted from the incident; and
- ix. steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

The Secretary may extend the time for submitting the written report to up to fifteen (15) calendar days.

**I.E.13.c. Contingency Plan implementation** - If the Contingency Plan provided in Permit Attachment H is implemented, the Permittee shall comply with the reporting requirements required by 20.4.1.500 NMAC, incorporating 40 CFR §264.56(j).

**I. E.14. Corrective Action**

Corrective action required pursuant to 20.4.1.500 NMAC, incorporating 40 CFR §264.101 shall continue under this Permit for any period necessary to comply with the requirements specified in Module IV of this Permit .

**I.E.15. Other Noncompliance**

The Permittee shall report all other instances of noncompliance not otherwise required to be reported under this Permit at the time monitoring reports are submitted. The reports shall contain the information listed in Permit Condition I.E.13.b., as required by 20.4.1.900 NMAC, incorporating 40 CFR §270.30(l)(10).

**I.E.16. Other Information**

Whenever the Permittee becomes aware that he failed to submit any relevant facts in the Permit Application, or submitted incorrect information in the Permit Application or in any report to the Secretary, the Permittee shall promptly submit such facts or information in writing to the Secretary as required by 20.4.1.900 NMAC, incorporating 40 CFR §270.30(l)(11).

**I.E.17. Waiver of Defense.**

In any judicial action brought in the United States District Court for the District of New Mexico under RCRA (or under the HWA), the Permittee waives all objections and defenses it may have to the jurisdiction of such Federal Court or to venue in such Federal District.

**I.E.18. Admissibility of Data**

In any administrative or judicial action to enforce a condition of this Permit, the Permittee waives any objection to the admissibility as evidence of any data generated pursuant to this Permit.

**I.F. SIGNATORY REQUIREMENT**

The Permittee shall sign and certify all applications, reports, or information submitted to or requested by the Secretary or required by this Permit, in accordance with, and using the certification language specified in 20.4.1.900 NMAC, incorporating 40 CFR §§270.11 and 270.30(k).

**I.G. REPORTS, NOTIFICATIONS, AND SUBMISSIONS TO THE NMED**

The Permittee shall submit by certified mail or hand delivery all reports, notifications, or other submissions which are required by this Permit to be sent or given to the NMED. The submissions should be sent by certified mail or hand delivered to:

Manager  
Permits Management Program  
New Mexico Environment Department  
Hazardous Waste Bureau  
2905 Rodeo Park Drive East  
Building 1  
Santa Fe, New Mexico 87505-6303

Telephone Number: (505) 428-2500  
Facsimile Number: (505) 428-2567

**I.H. CONFIDENTIAL INFORMATION**

The Permittee may claim confidentiality for any information required to be submitted by this Permit, to the extent authorized by the HWA §74-4-4.3(D) and 20.4.1.900 NMAC, incorporating 40 CFR §270.12.

**I.I. DOCUMENTS TO BE MAINTAINED AT THE FACILITY**

The Permittee shall maintain at the Facility, until completion of closure as specified in Permit Module K, the following documents and all amendments, revisions and modifications to these documents:

1. *Waste Analysis Plan*, contained in Attachment D, as required by 20.4.1.500 NMAC, incorporating 40 CFR §264.13(b) and this Permit.
2. *Inspection Plan*, contained in Attachment F, as required by 20.4.1.500 NMAC, incorporating 40 CFR §264.15(b)(2) and this Permit.
3. *Personnel Training* documents and records, contained in Attachment J, as required by 20.4.1.500 NMAC, incorporating 40 CFR §264.16(d) and this Permit.
4. *Contingency Plan*, contained in Attachment H, as required by 20.4.1.500 NMAC, incorporating 40 CFR §264.53(a) and this Permit, and including summary reports and details of all incidents that require implementation of the Contingency Plan, as required by 20.4.1.500 NMAC, incorporating 40 CFR §264.56(j).
5. Operating Record, contained in Attachment I, *Record Keeping*, as required by 20.4.1.500 NMAC, incorporating 40 CFR §264.73 and this Permit.
6. *Closure Plan*, contained in Attachment K, as required by 20.4.1.500 NMAC, incorporating 40 CFR §264.112(a) and this Permit.
7. Annually adjusted closure cost estimate as required by 20.4.1.500 NMAC, incorporating 40 CFR §264.142(d), and this Permit.
8. The names, addresses, and phone numbers of the Emergency Coordinator (EC) and all persons designated as alternate EC, as required by Permit Condition II.J.4, and shown in Table H-1 of Permit Attachment H, *Contingency Plan*.
9. A list of all equipment, as contained in the Permit Attachment H, Table H-2, *Emergency Equipment List*, which must be regulated as required by 20.4.1.500 NMAC, incorporating 40 CFR Part 264, Subpart CC.
10. A signed duplicate copy of the liability policy required under Permit Condition II.Q.1., as required by Permit Condition II.Q.2.